

Appl. No. : 10/632,556
Filed : August 1, 2003

I. REMARKS

In the Final Office Action mailed March 23, 2005, the Examiner rejected Claims 2–28 under 35 U.S.C. § 103(a) as being obvious in view of U.S. Patent No. 6,761,637 to Weston and Barney (“the Weston Patent”). Applicant respectfully disagrees with the Examiner’s rejection and the Examiner’s characterization of the cited reference.

In addition, Applicant also traverses the Examiner’s rejection based on 35 U.S.C. § 103(c)(1). Under Section 103(c)(1), “[s]ubject matter developed by another person, which qualifies as prior art . . . under [102(e)], . . . shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, . . . subject to an obligation of assignment to the same person.” 35 U.S.C. § 103(c)(1).

This Application was filed on August 1, 2003, claiming priority to a provisional application filed on August 1, 2002. Rick A. Briggs is the only named inventor on this Application. The Weston Patent was filed on February 22, 2001, claiming priority to a provisional application filed on February 22, 2000, and issued on July 13, 2004. Denise Chapman Weston and Jonathan A. Barney are the only named inventors on the Weston Patent. Thus, the Weston patent qualifies as prior art under 102(e). In addition, Creative Kingdoms, LLC is the assignee of this Application as well as the Weston Patent.

This Application and the Weston Patent were, at the time the invention of this Application was made, under an obligation to be assigned to Creative Kingdoms, LLC. Thus, under § 103(c)(1), the Weston Patent shall not preclude patentability of this Application since the Weston Patent and the claimed invention were, at the time the claimed invention was made, subject to an obligation of assignment to the same entity, namely Creative Kingdoms, LLC.

Accordingly, Applicant respectfully submits that the Weston Patent is not prior art to the pending application, and Applicant respectfully requests that the rejection of Claims 2–28 be withdrawn.

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II. CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved.

Also, please charge any additional fees, including any fees for additional extension of time or credit overpayment, to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Sept. 21, 2005

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